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UNCLAS OTTAWA 000717

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SUBJECT: SUBSCRIPTION RADIO: CANADIAN LICENSE EXPECTED SOON

REF: 04 OTTAWA 2967 (BROADCAST REGULATION CHALLENGES)

1. This message is sensitive, but unclassified. Not for distribution outside USG channels.

2. SUMMARY/INTRODUCTION: Canada's broadcast regulator, the Canadian Radio-Television and Telecommunications Commission (CRTC), is considering three license applications for subscription radio services in Canada. A senior GOC official who is close to the CRTC told us he expects that the CRTC will grant at least one license, the terms of which will "push the envelope" in terms of Canadian content requirements. He said a CRTC announcement is likely in March or early April. End summary/introduction.

3. BACKGROUND: Under Canada's Broadcasting Act, the CRTC tightly limits access to Canadian audiences by non-Canadian broadcast services. Both television and radio services conform to Canadian content ("Can-con") quotas as a condition of license. Conventional radio stations are required to ensure that 35 percent of their musical selections qualify as "Canadian." Technological change in recent years has undermined the CRTC's control of broadcasting. For example, hundreds of thousands of Canadian households are believed to use black- or gray-market devices to receive U.S. television signals (reftel), and many radio services are distributed globally on the Internet.

4. KEY PLAYERS: No subscription radio services are currently licensed in Canada, but two U.S.-based satellite players - XM and Sirius - have joined with Canadian partners to bring applications to the CRTC, and one Canadian consortium has applied to offer a subscription radio service from terrestrial stations. Major auto manufacturers are backing the applications by XM and Sirius, since the carmakers want to place receivers in new vehicles. Key opponents, besides the conventional radio industry, are in Canada's politically influential "cultural policy" lobby (made up of arts/nationalist groups which traditionally push the GOC to protect domestic entertainment and cultural products on "nation-building" grounds). While these groups usually want protection of Canadian industries, rather than merely of Canadian creative products, much of their concern with respect to radio is that new services will undermine the "Canadian content" regime.

5. DECISION SOON: Econoffs recently met with a senior GOC official who has close links to the CRTC. He predicted that the CRTC will decide to license at least one subscription radio service, that this will be announced in March or April, and that the conditions of license will "push the envelope" in terms of Canadian content. (Comment: XM and Sirius have already offered to include some "Canadian" channels as part of their Canadian services. We speculate that the CRTC could impose requirements for Canadian musical selections on all channels offered by the new licensee. End comment).

6. CANADIAN VS. FOREIGN SATELLITES: A key GOC interest for GOC communications policymakers is maintaining Canada's strong position in the commercial satellite business (which is based on Canada's acquisition during the 1960's-1970's of many orbital slots). GOC policy calls for the use of Canadian satellites to carry Canadian programming, but the official told us that there is no space currently available for subscription radio on Canadian satellites. The GOC is considering adjusting its policy to accommodate the new service, but he said the adjustment will probably be "narrowly focused" on subscription radio.

7. DOWNLOADING RISK: Because of their high-quality digital signal, the satellite radio applications have further

intensified concern in Canada about copyright protection of musical works, which was already high in the wake of recent court decisions. The GOC is expected to introduce comprehensive copyright legislation in coming months. The official noted that the advent of satellite radio highlights the need for a "very dynamic copyright regime."

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